



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, D.C. 20460

OCT 02 2006

OFFICE OF  
CIVIL RIGHTS

**RETURN RECEIPT REQUESTED**

Certified Mail #7004-1160-0004-8430-7698

**In Reply Refer to:**

EPA File No. 17D-05-R1



Re: Rejection of Administrative Complaint

Dear [REDACTED]:

This is in reference to the administrative complaint you filed with the U.S. Environmental Protection Agency (EPA) on June 18, 2005. Your April 21, 2006, e-mail containing supplemental allegations has also been considered. Your complaint, filed against Jobs For Youth Networks (JFY), alleges that JFY violated Section 504 of the Rehabilitation Act of 1973 and EPA's nondiscrimination regulations found at 40 C.F.R. Part 7. Based on the information you submitted and the intervening events which occurred after the initial incident, the Office of Civil Rights (OCR) has determined that the allegations regarding reasonable accommodations and JFY's failure to offer you their internal grievance procedures are moot. In addition, the allegations regarding JFY's compliance with the procedural requirements of EPA's nondiscrimination regulations, and intimidation and coercion by JFY, do not meet the jurisdictional requirements described in EPA's nondiscrimination regulations. Therefore, OCR cannot accept your complaint for investigation.

Under Section 504 of the Rehabilitation Act, a recipient of federal financial assistance may not discriminate on the basis of handicap. Subpart C of 40 C.F.R. Part 7 states that, "No qualified handicapped person shall solely on the basis of handicap be excluded from participation in, be denied the benefits of, or otherwise be subjected to discrimination under any program or activity receiving EPA assistance." 40 C.F.R. § 7.45. Pursuant to EPA's nondiscrimination regulations, OCR conducts a preliminary review of administrative complaints for acceptance, rejection, or referral. 40 C.F.R. § 7.120(d)(1). To be accepted for investigation, a complaint must meet the jurisdictional requirements described in EPA's nondiscrimination regulations. First, it must be in writing. Second, it must describe an alleged discriminatory act that violates EPA's nondiscrimination regulations (*i.e.*, an alleged discriminatory act based on race, color,

national origin, sex, or handicap). Third, it must be filed within 180 calendar days of the alleged discriminatory act. 40 C.F.R. § 7.120. Fourth, the complaint must be against an applicant for, or recipient of, EPA assistance that allegedly committed the discriminatory act. 40 C.F.R. § 7.15. For reasons listed below, OCR is rejecting the allegations in this complaint.

### **Complaint Allegations:**

Your complaint contains the following allegations:

1. JFY did not provide reasonable accommodations for your disability when they refused to allow you to either review questions prior to a mock interview in front of the class, or be exempted from the interview.

As indicated in your complaint, you were enrolled in an Environmental Technology Training program conducted by JFY. On February 27, 2005, you requested that JFY allow you to take a pre-mock interview or provide you with the interview questions in advance, because of your disability. In class the following day, JFY explained the purpose of the mock interview. You then requested to be excused from the assignment. On March 8, 2005, you received a letter from JFY granting you an exemption from participating in the mock interview; however, you decided to quit the entire program.

The Supreme Court has held that a case is moot “when the issues presented are no longer ‘live,’ or the parties lack a legally cognizable interest in the outcome.” *Powell v. McCormack*, 395 U.S. 486, 496 (1969). See also *City News and Novelty, Inc. v. City of Waukesha*, 531 U.S. 278 (2001) (no live controversy where plaintiff, in action seeking judicial review of denial of license renewal, no longer sought license and expressed no intent to pursue license). This means that “[t]he parties must continue to have a ‘personal stake in the outcome’ of the lawsuit.” *Spencer v. Kemna*, 523 U.S. 1, 7 (1998), quoting *Lewis v. Continental Bank Corp.*, 494 U.S. 472, 477-478 (1990) (in habeas corpus petition alleging unconstitutional parole revocation procedures, case was moot where expiration of petitioner’s sentence resulted in lack of case or controversy). Thus, a mootness analysis centers on whether subsequent events have extinguished any live controversy such that the parties have no personal stake in the outcome of the case. *City News*, 531 U.S. at 283-86; *Spencer*, 523 U.S. at 7.

Although JFY offered to accommodate your request to be excused from participating in the mock interview, you chose to resign from the training program. Therefore, based on the materials you submitted with your complaint, as well as the controlling legal authority, EPA finds that events occurring subsequent to your request to be exempted from the mock interview have extinguished any live controversy in the matter and the allegation is moot. Accordingly, EPA will not accept this allegation for investigation.

2. JFY did not provide you with compliance information per your request on March 9, 2005, as required in 40 C.F.R. § 7.85(f)(2).



EPA's Part 7 regulations allow the filing of complaints by those who feel they have been "discriminated against in violation" of the regulations. 40 C.F.R. § 7.120(a). While JFY may not have provided you with compliance information as required by this Part, that fact alone does not constitute discrimination, but rather indicates possible noncompliance with a procedural requirement for recipients of EPA financial assistance. Accordingly, EPA will not accept this allegation for investigation.

3. JFY did not have a notice of nondiscrimination posted in a prominent place or in a publication of any kind, as required in 40 C.F.R. § 7.95.

As stated above, EPA's Part 7 regulations allow the filing of complaints by those who feel they have been "discriminated against in violation" of the regulations. 40 C.F.R. § 7.120(a). While JFY may not be providing notice that they do not discriminate as required by this Part, that fact alone does not constitute discrimination. While this allegation indicates possible noncompliance with a procedural requirement for recipients of EPA financial assistance, it does not describe an alleged act of discrimination by JFY. Accordingly, EPA will not accept this allegation for investigation.

4. JFY employs more than 15 employees, but did not designate at least one person to coordinate compliance efforts, as required in 40 C.F.R. § 7.85(g).

EPA's Part 7 regulations allow the filing of complaints by those who feel they have been "discriminated against in violation" of the regulations. 40 C.F.R. § 7.120(a). The information submitted with your complaint states that when asked, JFY provided the name of an employee that serves as their "ADA coordinator." While JFY may not have previously designated at least one person to coordinate compliance efforts as required by this Part, that fact alone does not constitute discrimination, but rather indicates possible noncompliance with a procedural requirement for recipients of EPA financial assistance. Accordingly, EPA will not accept this allegation for investigation.

5. JFY did not offer you their internal grievance procedures, as required in 40 C.F.R. § 7.90. This forced you to seek outside relief to address your complaints.

EPA's Part 7 regulations require each recipient to adopt grievance procedures to assure the prompt and fair resolution of complaints that allege discrimination. The purpose of the grievance procedures is to ensure that a mechanism exists for the public to get their concerns heard and addressed. Here, JFY offered to accommodate your request to be excused from participating in the mock interview, per your request, but, as detailed above, you refused. Therefore, based on the materials you submitted with your complaint, as well as the controlling legal authority, EPA finds that events occurring subsequent to your request to be exempted from the mock interview have extinguished any live controversy in the matter and the allegation is moot.

Moreover, while JFY may or may not have had a grievance procedure, that fact alone does not constitute discrimination, but rather indicates possible noncompliance

with a procedural requirement for recipients of EPA financial assistance. In any case, the information you submitted does not describe an alleged act of discrimination by JFY. Accordingly, EPA will not accept this allegation for investigation.


6. JFY violated 40 C.F.R. § 7.100 on March 2, 2005, by attempting to intimidate and coerce you not to exercise your rights for accommodation for the purpose of interfering with your rights. JFY continued these actions during the mediation session on December 13, 2005, and again during the small claims trial on April 4, 2006.

The information provided in your complaint states that on March 2, 2005, JFY offered to excuse you from participating in the mock interview. It is customary for parties to try to resolve issues or complaints by offering solutions through negotiation as an attempt to reach mutual agreement. Furthermore, the statements made by JFY during the course of the mediation session and small claims trial appear to be nothing more than JFY's efforts to defend itself. JFY's actions did not create any appearance of any intimidation or coercion regarding your request for accommodation, or regarding the filing of this complaint with EPA, and thus does not describe an alleged act of retaliation. Accordingly, EPA will not accept this allegation for investigation.

Since the allegations discussed in your complaint do not meet the jurisdictional requirements described in EPA's nondiscrimination regulations, or concern matters which are now moot, OCR must reject your complaint for investigation. Compliance with the procedural requirements of EPA's nondiscrimination regulations is mandatory for all EPA recipients. OCR is currently evaluating whether a compliance review of JFY is warranted based on some of your allegations.

If you have any questions, please contact Karen Randolph of the OCR External Compliance Program by telephone at (202) 343-9679, via electronic mail at [Randolph.Karen@epa.gov](mailto:Randolph.Karen@epa.gov), or by mail at: U.S. EPA, Office of Civil Rights (Mail Code 1201A), 1200 Pennsylvania Avenue, N.W., Washington, D.C. 20460-1000.

Sincerely,



Karen D. Higginbotham  
Director

cc: Gary Kaplan, Executive Director  
JFY Networks  
125 Tremont St.  
Boston, MA 02108



Stephen G. Pressman, Associate General Counsel  
Civil Rights Law Office (MC 2399A)

Pam Hill, Title VI Coordinator  
EPA Region 1